

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Jill Kadrmas,

Plaintiff,

vs.

American Funds Distributors, Inc. and
American Funds Service Company,

Defendants.

Case No: 3:15-cv-85

ORDER

Plaintiff initiated this action in Cass County District Court in August 2015. On September 2, 2015, defendants removed the action to this court pursuant to 28 U.S.C. § 1332.

Defendants based their claim that the amount in controversy exceeds \$75,000, in part, upon plaintiff's request for an award of attorney fees as provided by law. (Doc. #4, p. 1). Plaintiff disputes that the amount in controversy exceeds \$75,000. Id. To resolve the jurisdictional dispute, the parties stipulated that plaintiff would file an amended complaint which eliminated her request for attorney fees, and defendants agreed to withdraw their request for removal. Id. at 2. The stipulation was filed with the court on September 4, 2015.

On September 8, 2015, defendants filed a notice of withdrawal of removal, in accordance with the September 4th stipulation, and requested that this court remand the matter to the state court. (Doc. #5). Accordingly, it is **ORDERED** that the case be remanded to the to the Cass County District Court.¹

¹ Remand of a case removed pursuant to 28 U.S.C. § 1332 has been considered to be outside the scope of a magistrate judge's authority, as a functional equivalent of an involuntary dismissal of the action. See In re U.S. Healthcare, 159 F.3d 142, 145 (3rd Cir. 1998) (finding that a magistrate judge cannot, without the consent of the parties, decide

Dated this 14th day of September, 2015.

/s/ Alice R. Senechal
Alice R. Senechal
United States Magistrate Judge

whether to remand a case). Here, both parties have stipulated that the case be remanded to the state court. Since the parties have consented to remand, it is within the scope of a magistrate judge's authority to issue this order remanding the case.